

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, et al.,	*	
	*	CIVIL ACTION NO.
Plaintiffs,	*	1:17-CV-2989-AT
	*	
v.	*	
	*	
BRAD RAFFENSPERGER, et al.,	*	
	*	
Defendants	*	
	*	

**OBJECTION OF NON-PARTY JOSEPH KIRK, BARTOW COUNTY
ELECTIONS SUPERVISOR, TO SUBPOENA TO PRODUCE
DOCUMENTS FROM COALITION FOR GOOD GOVERNANCE**

COMES NOW JOSEPH KIRK, in his official capacity as the Bartow County, Georgia Elections Supervisor, by and through the undersigned counsel, and makes this his objection to Plaintiff COALITION FOR GOOD GOVERNANCE's Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action, dated December 23, 2020, by showing and stating as follows:

1.

On December 22, 2020, Non-party JOSEPH KIRK (hereinafter "KIRK") was served with a Subpoena to Produce Documents, a copy of which is attached as Exhibit A. The subpoena requests production of 14 enumerated categories of

documents. The subpoena commands production of the documents no later than January 12, 2021.

2.

Non-party KIRK objects to having to comply with the subpoena in regard to all requested documents by the subpoena's listed January 12, 2021 deadline as this short compliance deadline in the midst of having to conduct Bartow County's U.S. Senate runoff elections is unduly burdensome. As this Court is fully aware, all elections superintendents in the State of Georgia are fully focused on conducting the unprecedented U.S. Senate runoff elections which are currently scheduled for January 5, 2021, and for which advance voting began on December 14, 2020. KIRK's office will be wholly devoted to completing this election duty in conformity with Georgia law, including any recounts, post-election certification, and risk limiting audits, etc. Despite the subpoena's overly burdensome time deadline, and except as otherwise objected to herein, Non-party KIRK intends to comply with the subpoena production by January 26, 2020. Counsel for Non-party KIRK has attempted in good faith to informally contact counsel responsible for issuance of the subpoena regarding this extension but has not received a response.

3.

To the extent that responsive documents exist, Non-party KIRK intends to comply with the requests set forth in the subpoena except as otherwise noted hereafter.

4.

Non-party KIRK objects to items 4 and 7 of the subpoena which seek production of the following:

4. Electronic copies of all scanned ballot images appended with the Auditmark record showing the interpretation of each vote where applicable, from both the election day count and the machine recount of the November 3, 2020 election.

7. High quality scans of at least 300 dpi for all ballots in the batches identified above in item (6).

The disclosure of ballot images violates the voting protections afforded by the Georgia Constitution which provides that votes are cast by secret ballot. 1983 Ga. Const. Art. II, Sec. I, Para. I. Additionally, pursuant to O.C.G.A. § 21-2-500(a) such documents are statutorily held under seal for a period of 24 months, subject to release only upon order of a superior court.

5.

As to items 6 and 11, Non-party Kirk has no responsive documents.

6.

As to item 10, Non-party KIRK only has responsive document for the presidential race.

Respectfully submitted, this 5th day of January 2021.

Respectfully submitted,

/s/ J. Jayson Phillips

Georgia Bar No. 576305

Attorney for Non-party Joseph Kirk

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CERTIFICATE OF COMPLIANCE

The foregoing **OBJECTION OF NON-PARTY JOSEPH KIRK, BARTOW COUNTY ELECTIONS SUPERVISOR, TO SUBPOENA TO PRODUCE DOCUMENTS FROM COALITION FOR GOOD GOVERNANCE** is double-spaced in 14-point Times New Roman font and complies with the type-volume limitation set forth in Local Rule 7.1.

Respectfully submitted, this 5th day of January, 2021.

Respectfully submitted,

/s/ J. Jayson Phillips

Georgia Bar No. 576305

Attorney for Non-party Joseph Kirk

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing **OBJECTION OF NON-PARTY JOSEPH KIRK, BARTOW COUNTY ELECTIONS SUPERVISOR, TO SUBPOENA TO PRODUCE DOCUMENTS FROM COALITION FOR GOOD GOVERNANCE** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record in the above-referenced actions and via electronic mail to:

Bruce Brown
1123 Zonolite Road
Atlanta, GA 30306

Respectfully submitted, this 5th day of January, 2021.

Respectfully submitted,

/s/ **J. Jayson Phillips**

Georgia Bar No. 576305

Attorney for Non-party Joseph Kirk